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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,400	12/26/2000	Koji Hayashi	10449-033001	4569
26161	7590	11/29/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			CHU, KIM KWOK	
			ART UNIT	PAPER NUMBER
			2653	
DATE MAILED: 11/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/748,400

Applicant(s)

HAYASHI ET AL.

Examiner

Kim-Kwok CHU

Art Unit

2653

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 21 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: 6 and 10.  
Claim(s) rejected: 1-5 and 7-9.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

Continuation of 11. does NOT place the application in condition for allowance because:

(a) Applicant states that Willis does not disclose such a synchronizing circuit to synchronizes written data read from a recording medium with encoded data read from a buffer (page 4 of the Remarks, lines 3-5 of the section Synchronizing circuit). Accordingly, the prior art of Willis teaches a buffer management circuitry for writing and reading a program (column 2, lines 30-40). Therefore, Willis buffer management can be considered as a write/read synchronizing circuitry. Furthermore, Willis simultaneous recording and playing back a program can also be considered as a write/read synchronizing circuitry (column 2, lines 41-57). In case of above write/write operation is interrupted as in Applicant's claim 1, the prior art of Willis write/read buffer management starts to function (synchronize) as illustrated in Fig. 15 steps 204 and 208.

(b) Applicant states that the prior art of Willis does not teach "a circuit that determined whether an address of write data, which is read from a recording medium, and an address of read data, which is provided to an encoder from a buffer memory, is the same" (page 5 of the Remarks, lines 6-9). Accordingly, an encoder has a error checking algorithm so that input data and its address are properly encoded. On the other hand, read data stored in the buffer and then output to the encoder inherently has the same address because a buffer memory cannot change the content of the stored data. During a synchronization operation such as a pause, the read data does not change its content before it is inputted to the buffer and after outputted to the buffer.

(c) Applicant states that the prior art of Willis "does not recite a circuit that determined whether a timing for reading write data from a recording medium and a timing for encoding read data from a buffer memory are the same" (page 5 of the Remarks, lines 18-20). Accordingly, the timing (sampling frequency) of a read data is the encoded data's sampling frequency. Therefore, the prior art of Willis teaches an encoder where it digitizes/encodes a data with a specific sampling frequency which is the sampling frequency of a read data.

(d) Applicant states that Willis does not teach "a restart circuit that restarts the writing of data to a recording medium based on the determination of the first and second retry determination circuits. Accordingly, the prior art of Willis teaches an operation of simultaneously recording on and playing back a program with a single pickup (column 2, lines 41-57). The alternative read/write of data is a series of repeated read/write operations which can be considered as a restart circuitry where a data's proper address and sampling frequency are processed.

(e) With respect to the secondary reference, the prior art of Arataki is cited as an example that an information recording system having an encoder which receives data read from a buffer is an obvious feature of Applicant's claims.

(f) With respect to independent claims 3 and 7, the prior art of Willis in view of Arataki teaches Applicant's claimed features as explained above.

Examiner: Kim Chu  
Au2653

(571) 272-7585.

  
WILLIAM KORZUCH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600